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EXAMINER				
CHU, KIM KWOK				
ART UNIT		PAPER NUMBER		
2627				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/558,714

Applicant(s)

EBERDORFER, WOLFGANG

Examiner

Kim-Kwok CHU

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/22/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 7-10 is/are allowed.
- 6) ☒ Claim(s) 11-15 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/29/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Claim Objections

1. Claims 5, 6, 11 and 18 are objected to because of the following informalities:

In Claim 5, line 2, the phrase "in relation to data scanning means" should be deleted because it is not recited in Claim 1;

Similarly, in Claim 6, line 2, the phrase "in relation to data scanning means" should be deleted because it is not recited in Claim 1;

In Claim 11, line 2, the phrase "with scanning means (10)" should be changed to --with scanning means--; and

In Claim 18, line 2, the phrase "carrier (1,5)" should be changed to --carrier--.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding Claim 11, the preamble of the claim is directed to "A data playback method of reading data from a data carrier". However, the body of the claim instead of further reciting steps of data playback (reading) steps, it recites how the carrier is manufactured and the properties of a defective area in the carrier. Otherwise, Claim 11 contains only a data reading step and a scanning means moving step. As such, it is not clear whether Claim 11 is meant to claim the manufactured carrier or the data reading and scanning means moving steps.

Similarly, in Claim 18, the preamble of the claim is directed to "A data playback device for reading data from a data carrier". However, the body of the claim instead of further reciting elements and means of the data playback device, it recites how the carrier is manufactured and the properties of a defective area in the carrier. Otherwise, Claim 18 contains only a scanning means, a scanning control means and a switching means. As such, it is not clear whether Claim 18 is meant to claim the manufactured carrier or the data playback device.

The claims not specifically mentioned above are rejected because these claims are dependent on the rejected base claims.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

5. Takagi teaches a data playback device having all of the elements and means as recited in claims 18-21. Takagi teaches the following:

Regarding Claim 18, the data playback device (Fig. 5) for reading data from a data carrier 8, wherein the data are stored in a data recording area DuA (Fig. 2) of the data carrier in accordance with a predefined data recording standard (Fig. 2; user data is stored with error detection/correction coding; column 2, lines 42 and 43), wherein at least one defective area PDL (Fig. 2) is embedded (surrounded by) in the data recording area DuA (Fig. 2), which defective area PDL is designed in such a way that it comes into conflict with at least one parameter of the predefined data recording standard (user data in ZN0 is formatted/coded differently with PDL), , wherein the conflict can preferably not be rectified by standard-compliant error-correction measures in accordance with the data recording standard (Fig. 2; PDL cannot be access by an user), and wherein

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the data carrier 8 has at least one defect localization area PDSA0 (Fig. 2) containing position information about the position of the at least one defective area PDL on the data carrier comprising: scanning means 10 (Fig. 5; optical pickup) for scanning the data carrier 8 for the purpose of reading the data from the data recording area DuA and of reading the position information (addressees) about the position of the defective area from the defect localization area PDSA0, scanning control means 18 (Fig. 5) for controlling the scanning means 10, switching means 33 for switching the scanning means 10 and/or the scanning control means 18 between a standard data playback mode and a defective area control mode (Fig. 10), depending on the position information about the position of the defective area.

Regarding Claim 19, the scanning means 10 are designed to enable reading of identification information from the defective area in the defective area control mode (Fig. 10; error detection).

Regarding Claim 20, comparing means 13 for comparing the identification information with default values are provided (Fig. 5; error detector/corrector compares address and error information).

Regarding Claim 21. comparing means 13 are designed to

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prevent (fail) reading of the data from the data carrier if the identification information does not match the default values (disk error such as address error in PDL prevent the error detector/corrector 13 read data from the disk).

6. Method claims 11-15 and 17 are drawn to the steps of using the corresponding apparatus claimed in claims 18-21. Therefore method claims 11-15 and 17 correspond to apparatus claims 18-21 and are rejected for the same reasons of anticipation as used above.

Allowable Subject Matter

7. Claims 1-3 and 5-10 are allowable over prior art.

8. Claims 8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 5, 6, 11 and 18 are objected to because of the formalities.

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10. The following is an Examiner's statement of reasons for the indication of allowable subject matter based on Amendment filed on December 22, 2010.

As in claim 1, the prior art of record fails to teach or fairly suggest a data carrier having the following features:

the data carrier is manufactured to include at least one defective area is designed to be embedded on the data carrier as one of a ring-shaped defective area or a sector-shaped defective area, which defective area is designed in such a way that it comes into conflict with at least one parameter of the predefined data recording standard, as well as with at least one defect localization area containing position information about the position of the at least one defective area on the data carrier, wherein the at least one defective area is in conflict with the at least one parameter of the predefined data recording standard in such a way that the conflict cannot be rectified by standard-compliant error-correction measures in accordance with the data recording standard, wherein a defect localization area is physically located before each defective area and provides information about the nature and position of the subsequent defective area, and wherein the defective area is provided for data access protection.

As in claims 8 and 16, the prior art of record fails to

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teach or fairly suggest an information recording carrier having following features:

the identification information comprises one or more of the following items, namely a serial number, a personal identification number, a finger print and a digital file, such as an image file.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/
Examiner AU2627
March 8, 2011
(571) 272-7585

/William J. Klimowicz/

Primary Examiner, Art Unit 2627